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BIRCH STEWART KOLASCH & BIRCH			MORRISON, THOMAS A	
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NOTIFICATION DATE		DELIVERY MODE		
04/16/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No. 10/551,581	Applicant(s) SEIKE ET AL.
	Examiner THOMAS A. MORRISON	Art Unit 3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 02 April 2009.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1 and 12-15 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1 and 12-15 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/0256/06)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/5/09 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 12-13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "the predetermined reference position is located at a position where a sheet S of any size necessarily passes". The terms "any size" in claim 1 are unduly broad rendering claim 1 indefinite.

Also, this recitation appears to be inaccurate in that not every size sheet in the world can possibly work on the claimed apparatus.

Claim 15 recites "the predetermined reference position is located at a position where a sheet S of any size necessarily passes". The terms "any size" in claim 15 are unduly broad rendering claim 15 indefinite.

Also, this recitation appears to be inaccurate in that not every size sheet in the world can possibly work on the claimed apparatus.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 12-13, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Publication No. 2001-130780 (hereinafter "JP'780") in view of U.S. Patent No. 5,540,423 (Nakano) (hereinafter "Nakano").

Regarding claim 1, Figs. 1-4 of JP'780 show a sheet transport mechanism, comprising:

a rotation roller (2);

a plurality of driven rollers (5) which are arranged parallel to an axis of the rotation roller (2); and

a plurality of sheet transport guides (including 9 and 8), each guiding toward the rotation roller (2), a sheet to be transported between the rotation roller (2) and the driven rollers (5), each of the sheet transport guides (including 9 and 8) including a torsion coil spring (8) and having an arm portion which is connected to each of the driven rollers (5),

wherein each of the sheet transport guides (including 9 and 8) applies elastic force to each of the driven rollers (5) so that each of the driven rollers (5) is elastically biased toward the rotation roller (2). However, JP'780 does not explicitly disclose that each elastic force applied to each of the sheet transport guides is different from each other with distance from a predetermined reference position, and JP'780 does not explicitly disclose that such predetermined reference position is located at a position where a sheet S of any size necessarily passes, as claimed.

Nakano discloses that it is well known in the art to adjust the force applied between each driven roller of a plurality of driven rollers (65, 65 and 65) and a respective rotation roller (62, 63, or 64) in a sheet transport mechanism (Fig. 1) so that each of these forces is different from each other, for the purpose of avoiding diagonal orientation of a sheet during feeding of such sheet through the sheet transport mechanism (Fig. 1). See, e.g., Fig. 3, col. 1, lines 47-51 and col. 4, lines 5-17 of Nakano. It would have been obvious to one of ordinary skill in the art at the time the invention was made to adjust the nipping force between each of the driven rollers (5) and the rotation roller (2) of JP'780 so that each of these forces is different from one another relative to a predetermined position, for the purpose of avoiding diagonal orientation of a sheet during feeding of such sheet through the sheet transport mechanism of JP'780, as taught by Nakano. As one example, Fig. 3 of Nakano shows that the predetermined reference position can be located in a central part of the shaft (67). See, e.g., Fig. 3 and col. 4, lines 15-17 of Nakano to see the nipping forces applied to rollers 63 and 64.

Regarding the recitation "the predetermined reference position is located at a position where a sheet S of any size necessarily passes", this recitation has limitations that explicitly depend upon the article worked upon by the apparatus of the instant application. Since this recitation depends upon the article that is worked upon, this recitation does not impart patentability to claim 1 over the prior art apparatus of JP'780 in view of Nakano, particularly in view of MPEP 2115. MPEP, section 2115 states that, "[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims." See MPEP, section 2115. As such, all of the limitations of claim 1 are met by JP'780 in view of Nakano.

Alternatively, it is noted that a sheet of any size will necessarily pass through this reference position, e.g., if this sheet is aligned with this reference position during feeding in of this sheet.

Regarding claim 12, Fig. 3 of Nakano shows that the predetermined reference position can be located in a central part of the shaft (67) of a rotation roller. See, e.g., Fig. 3 and col. 4, lines 15-17 of Nakano to see the nipping forces applied to rollers 63 and 64.

Regarding claim 13, Fig 3 of Nakano shows that the predetermined reference position can be located in the left hand end portion of the shaft (67) of a rotation roller. See, e.g., Fig. 3 and col. 4, lines 15-17 of Nakano to see the nipping forces applied to all three rollers 62, 63 and 64.

4. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP'780 and the attached machine translation of the detailed description of this Japanese reference in view of Nakano.

Regarding claim 14, Figs. 1-4 of JP'780 show a sheet transport mechanism, comprising:

a rotation roller (2);

a plurality of driven rollers (5) which are arranged parallel to an axis of the rotation roller (2); and

a plurality of sheet transport guides (including 9 and 8), each guiding toward the rotation roller (2), a sheet to be transported between the rotation roller (2) and the driven rollers (5), each of the sheet transport guides (including 9 and 8) including a torsion coil spring (8) having a coil portion fixed to a frame (numbered paragraph [0020] of the attached machine translation of the detailed description), wherein the coil portion has a first arm portion (9 or 7) which extends to and is attached to a respective rotation shaft (6) of one of the driven rollers (5) and the coil portion has a second arm (8c) extending to and fixed to the frame. In particular, numbered paragraph [0020] of the attached machine translation of the detailed description explains that portion 8c of each torsion spring part 8 is fixed to a frame, as claimed.

Also, each of the sheet transport guides (including 9 and 8) applies elastic force to one of the driven rollers (5) so that each of the driven rollers (5) is elastically biased toward the rotation roller (2). However, JP'780 does not explicitly disclose that each

elastic force applied to each of the sheet transport guides is different from each other with distance from a predetermined reference position, as claimed.

Nakano discloses that it is well known in the art to adjust the force applied between each driven roller of a plurality of driven rollers (65, 65 and 65) and a respective rotation roller (62, 63, or 64) in a sheet transport mechanism (Fig. 1) so that each of these forces is different from each other relative to a predetermined position, for the purpose of avoiding diagonal orientation of a sheet during feeding of such sheet through the sheet transport mechanism (Fig. 1). See, e.g., Fig. 3, col. 1, lines 47-51 and col. 4, lines 5-17 of Nakano. It would have been obvious to one of ordinary skill in the art at the time the invention was made to adjust the nipping force between each of the driven rollers (5) and the rotation roller (2) of JP'780 so that each of these forces is different from one another, for the purpose of avoiding diagonal orientation of a sheet during feeding of such sheet through the sheet transport mechanism of JP'780, as taught by Nakano. As one example, Fig. 3 of Nakano shows that the predetermined reference position can be located in a central part of the shaft (67). See, e.g., Fig. 3 and col. 4, lines 15-17 of Nakano to see the nipping forces applied to rollers 63 and 64. Thus, all of the limitations of claim 14 are met by JP'780 and the attached machine translation of the detailed description of this Japanese reference in view of Nakano.

Regarding claim 15, this claim recites "wherein the predetermined reference position is located at a position where a sheet S of any size necessarily passes". This recitation has limitations that explicitly depend upon the article worked upon by the apparatus of the instant application. Since this recitation depends upon the article that

is worked upon, this recitation does not impart patentability to claim 15 over the prior art apparatus of JP'780 and the attached machine translation of the detailed description of this Japanese reference in view of Nakano, particularly in view of MPEP 2115. MPEP, section 2115 states that, “[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims.” See MPEP, section 2115. As such, all of the limitations of claim 15 are met by JP'780 and the attached machine translation of the detailed description of this Japanese reference in view of Nakano.

Alternatively, it is noted that a sheet of any size will necessarily pass through this reference position, e.g., if this sheet is aligned with this reference position during feeding in of this sheet.

Response to Arguments

5. Applicant's arguments filed 3/5/09 have been fully considered but they are not persuasive.

Applicant argues

Furthermore, according to claimed apparatus, each elastic force applied to each of the sheet transport guides is different from each other with distance from a predetermined reference position, as shown in Figures 2B and 2C. The predetermined reference position means the position where a sheet S of any size necessarily passes. (Support: lines 8-10 of page 10 in the specification).

In contrast to claimed apparatus of claim 1, newly cited Nakano does not disclose the claimed feature that each elastic force applied to each of the sheet transport guides is different from each other with distance from a predetermined reference position.

Nakano discloses that it is well known in the art to adjust the force applied between each driven roller of a plurality of driven rollers (65, 65 and 65) and a respective rotation roller (62, 63, or 64) in a sheet transport mechanism (Fig. 1) so that

each of these forces is different from each other relative to a predetermined reference position, for the purpose of avoiding diagonal orientation of a sheet during feeding of such sheet through the sheet transport mechanism (Fig. 1). See, e.g., Fig. 3, col. 1, lines 47-51 and col. 4, lines 5-17 of Nakano. It would have been obvious to one of ordinary skill in the art at the time the invention was made to adjust the nipping force between each of the driven rollers (5) and the rotation roller (2) of JP'780 so that each of these forces is different from one another, for the purpose of avoiding diagonal orientation of a sheet during feeding of such sheet through the sheet transport mechanism of JP'780, as taught by Nakano. As one example, Fig. 3 of Nakano shows that the predetermined reference position can be located in a central part of the shaft (67). See, e.g., Fig. 3 and col. 4, lines 15-17 of Nakano to see the nipping forces applied to rollers 63 and 64. Thus, JP'780 in view of Nakano meets the limitations of claim 1.

In addition, it is noted that in the recitation "the predetermined reference position is located at a position where a sheet S of any size necessarily passes" in claim 1, the recited limitations explicitly depend upon the article worked upon by the apparatus of the instant application. Since this recitation depends upon the article that is worked upon, this recitation does not impart patentability to claim 1 over the prior art apparatus of JP'780 in view of Nakano, particularly in view of MPEP 2115. MPEP, section 2115 states that, "[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims." See MPEP, section 2115. As such, all of the limitations of claim 1 are met by JP'780 in view of Nakano.

Alternatively, it is noted that a sheet of any size will necessarily pass through this reference position, e.g., if this sheet is aligned with this reference position during feeding in of this sheet.

The rejections of dependent claims 12 and 13 are outlined above.

The rejections of new claims 14 and 15 are also outlined above.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS A. MORRISON whose telephone number is (571)272-7221. The examiner can normally be reached on M-F, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick H. Mackey/

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